In the High Court of Punjab and Haryana, Chandigarh.

C.W.P.No.20416 of 2006

Date of Decision: 21.12.2006

Director, Social Defence & Security Development, Haryana & Another.

…Petitioners.

Versus

Ramesh Kumar & Another. …Respondents.

CORAM: HON'BLE MR.JUSTICE S.S.Nijjar
HON'BLE MR.JUSTICE S.S.Saron

Present: Mr.Anil Rathee, Additional Advocate General
Haryana, for the petitioners.

JUDGMENT

The petitioners seek the quashing of the award dated 4.4.2006 (Annexure P4) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon (respondent No.2) whereby the respondent No.1 has been awarded Rs.50,000/- as compensation on account of his illegal termination from service.

Sh.Ramesh Kumar (respondent No.1) was appointed as a Driver on 14.6.1995 by the petitioners. His appointment was on ad hoc basis for a period of six months or till the candidates recommended by the Subordinate Service Selection Board, Haryana, joined duty, whichever was earlier. He joined duty on 27.6.1995 in the office of the District Social Welfare Office, Rewari (petitioner No.2). After completion of six months' service on 26.12.1995, his services were extended vide order dated 4.12.1995 upto

26.6.1996. On expiry of the extended period of six months on 26.6.1996, the services of respondent No.1 were terminated by the Director, Social Defence & Security Department, Haryana (petitioner No.1). The respondent No.1 on 15.9.1998 made a request before the Labour and Conciliation Officer, Rewari, for his reinstatement in service. The case of respondent No.1 as also the Demand Notice was referred to the State Government by the Deputy Labour Commissioner, Gurgaon on 6.11.1998 under Section 12(4) of the Industrial Disputes Act, 1947 ("Act" for short). The State Government, in exercise of powers conferred by Section 10(1)(c) of the Act referred the dispute as to whether the termination of services of Sh.Ramesh Kumar (respondent No.1) was justified and in order and if not, to what relief was he entitled. The Labour Court after considering the matter, held that the services of respondent No.1 had been terminated illegally as no notice was served upon him. However, he was held not entitled to reinstatement in service and instead compensation of Rs.50,000/- was awarded. The said award of the Labour Court has been assailed in this writ petition.

Sh.Anil Rathee, learned Additional Advocate General, Haryana, appearing for the petitioners has submitted that the award passed by the Labour Court (respondent No.2) is against the facts of the case. Besides, it is a non-speaking award. The Labour Court has failed to appreciate the provisions of the Act and erred in awarding compensation of Rs.50,000/- to respondent No.1. The Labour Court has not considered the question that the petitioner department is not an Industry and hence no relief could be granted to respondent no.1.

After giving our thoughtful consideration to the matter, we find no merit in the contentions raised by the learned counsel for the petitioners. It is not disputed by the petitioners that despite grant of several opportunities

including last opportunity it did not lead any evidence before the Labour Court. Its evidence was closed by the Court vide order dated 15.7.2005. When the case was fixed for the evidence of respondent No.1 on 24.3.2006, no one appeared on behalf of the petitioners and they were proceeded against exparte. The respondent No.1 examined himself and supported the facts pleaded by him in his Demand Notice. He also tendered in evidence the copy of his appointment letter as also the letter vide which his services have been dispensed with. Experience Certificate issued by the petitioners which was tendered in evidence showed that the respondent No.1 had worked satisfactorily as a Driver for the period from 27.6.1995 to 26.6.1996 continuously. Therefore, he had completed more than 240 days of continuous service during the period of 12 calendar months preceding the date of his termination from service. As such, the respondent No.1 has rightly been found entitled to the benefit of Section 25F of the Act. He was not given the benefits of the provisions as enjoined therein. Nothing was produced on the record to show that respondent No.1 was given one month notice before terminating his services which in fact was the condition provided in his appointment letter dated 14.6.2006 (Annexure P2). This in fact is the requirement of the provisions of Section 25F(a) of the Act. Therefore, there has been clear infraction of the condition of the appointment letter as also the provisions of Section 25F of the Act. The contention of the learned counsel for the petitioners that the petitioner department is not an Industry is of no consequence. Such a plea is not shown to have been raised before the Labour Court. In fact, the only issue framed by the Labour Court on 12.4.2002 was whether termination of services of Sh.Ramesh Kumar (respondent No.1) is justified and, if not, to what relief was he entitled to. Although a written statement was filed by the petitioners before the Labour court, with respect to

the claim raised by respondent No.1. However, it was later proceeded against ex parte and did not lead any evidence. In any case, the respondent No.1 has not been reinstated in service and he has been awarded compensation of Rs.50,000/- on account of his illegal termination from service. This has not resulted in any injustice to the petitioners which would warrant interference of this Court in exercise of its supervisory writ jurisdiction. In fact, it appears that there has been a misreading of the award by the petitioners inasmuch as in the head note of the petition it has been prayed for issuance of writ in the nature of certiorari or any other writ, order or direction for quashing the impugned award dated 4.4.2006 (Annexure P4) passed by respondent No.2 wherein the respondent No.1 has been reinstated with continuity of service and full back wages. As already noticed, respondent No.1 has not been reinstated in service with continuity of service and full back wages. He has only been awarded Rs.50,000/- as compensation.

For the foregoing reasons, there is no merit in the petition. The same is accordingly dismissed.

(S.S.NIJJAR)
Judge

December 21, 2006 **(S.S.SARON)**
dkb **Judge**